

MEETING REPORT
Bernhart's Park Joint Meeting
City-County-Muhlenberg Township-EPA-
Wednesday, August 22, 2007
Council Chambers

Attending: J. Waltman, Vice President City Council; D. Sterner, City Council; M. Goodman-Hinnershitz, City Council; S. Marmarou, City Council; T. McMahon, Mayor City of Reading; L. Kelleher, City Clerk; C. Kanezo, Deputy City Clerk; C. Jones, Public Works; D. Hoag, Public Works; J. Meeks, Berks County Solid Waste Authority; J. Schwank, Commissioner; B. Evans, Sen. O'Pake's office; D. Didyoung, Engineer Muhlenberg Township; S. Landes, Manager Muhlenberg Township; N. Deluca, Muhlenberg Township Supervisor; R. Weinoffer, Cong. Gerlach's office; P. Hill, Blank Rome counsel for the City; J. Cohen, Blank Rome counsel for the City; T. Smith, Cong. Tim Holden's office; C. McPhedran, PennFuture counsel for the County; D. Erdman, Keystone E Sciences Group advisor for the County; Khai Dao, USEPA; P. Gotthold, USEPA.

The meeting began at approximately 2:10 p.m. Ms. Hill began the meeting by asking those present to describe how Bernhart's Park has been used historically. Ms. Hill explained such a discussion would provide a useful context and help the EPA get a better understanding of the activities regularly conducted at the park.

Ms. Goodman-Hinnershitz, Mr. Marmarou and Mr. Didyoung recalled activities they engaged in at the Park as children and as adults such as swimming, hiking, fishing, picnicking, baseball, etc. All three recalled the Park being a center of very intense, active recreation.

Ms. Hill stated the major issue, as far as the City of Reading was concerned, centers on remediating the park to a state where any and all forms of recreation could once again be engaged in without restriction. Ms. Hill asked the representatives of the EPA to explain the methodology used to determine what levels of contamination are deemed acceptable.

Mr. Gotthold explained calculating levels of lead contamination is very complicated, as the nature of lead contamination does not allow for uniform remediation. [The EPA generally directs remediation if levels fall anywhere between 400 and 2000 parts per million.](#) Mr. Gotthold explained EPA develops site specific remediation models that consider dozens of location specific

variables and therefore are very difficult to generate. Mr. Gotthold informed the group EPA is working on assembling a package of information that will be made available to interested parties; the information will answer in questions related to how the risk assessment was developed and evaluated and what criteria received consideration.

EPA Clarification:

EPA uses the Integrated Exposure Uptake Biokinetic Model for Lead in Children (IEUBK model) to develop residential cleanup levels between 400 and 1200 parts per million for lead in soil for the Exide investigation.

Ms. Hill stated that the documentation provided by the EPA in response to the filing of the FOIA did not include any documentation of EPA-Exide activity between 2002 and 2006. She noted that is difficult to believe that there was absolutely no activity between the two parties during this time period. She questioned if there were discussions or disagreements between the EPA and Exide on any technological issues during this time period.

Mr. Gotthold stated that he is in the process of preparing a packet of information from this time period. The packet will include the risk assessment, community blood sampling surveys, other sampling documentation and other pieces of documentation.

Ms. Hill noted the City and County's objection to the level of remediation proposed by the EPA for Bernhart's Park. She stated the level proposed would require the City to close certain areas to the public. Mr. Dao stated that the plan proposed in 2001 was not the final remediation plan but a plan that would allow the park to open until the full remediation could occur. He added that the EPA is currently working on the final plan. This plan will be released when it is finalized.

Mr. Dao remarked that all documents related to the Bernhart's risk assessment and work plan will be made available to the general public upon finalization of the work plan. These documents, requested at the May meeting, were not distributed earlier due to the EPA policy prohibiting the release of draft information. Mr. McPhedran asked why the final documents had not been produced earlier, as 11 years has passed since the contamination was identified. Mr. Dao explained the release of the final documents was delayed due to the length of time necessary to complete the studies.

Mr. McPhedran again questioned the gap between 2002 and 2006. Mr. Gotthold explained that many tests (human and soil) were conducted and reviewed during this time period.

Mr. Erdman questioned why the risk assessment appeared to focus largely on lead contamination, while paying no attention to other dangerous contaminants like Cadmium. Mr. Gotthold explained that other materials were not considered because lead is the heaviest component produced by Exide. Mr. Dao added that the known quantities of other materials, specifically Cadmium, were detected in amounts that would not pose a danger to human habitation. Mr. Erdman observed that other contaminants can be present and cause ecological risks. Mr. Erdman questioned how the EPA could know which contaminants were miniscule or heavy when no testing was done to provide a basis for this determination.

Ms. Hill inquired if an ecological risk assessment has been performed. Mr. Gotthold stated that the EPA has not performed an ecological risk assessment and will require Exide to complete one.

Mr. Dao distributed handouts that included a map outlining the lead contamination levels for all affected parcels. Mr. Dao noted that as a matter of policy EPA gives greater priority to the risks posed to human habitation; the contamination levels detailed in the risk assessment reflect this policy. A new assessment will reflect ecological risks and factor more realistic exposure thresholds into the model, which should produce improved remediation levels.

Mr. Gotthold explained that the remediation of the Park will be split between two remediation models; one that would protect children 7 and under and one that would protect pregnant women.

EPA Clarification:

EPA will apply two separate risk assessments; the IEUBK model and the EPA Adult Lead model to determine an appropriate cleanup for the park. The IEUBK model, which is protective of children 7 years old and younger and pregnant women, will be applied to the flat areas where people most frequent. The EPA Adult Lead model, which is protective of persons over 7 years old, will be applied to areas that are heavily wooded, steeply sloped, and not easily accessible.

Ms. Hill and Ms. Cohn questioned why the EPA applied two different risk assessment models to Bernhart's Park. Ms. Hill noted the application of the two remediation models has produced a great deal of inconsistency. She noted that this application will require certain areas of the Park to be closed to the public. Mr. Gotthold explained one model was applied to homes in the area while the other two less intensive models were applied to the Park. Ms. Hill replied that the EPA cannot assume how areas of park are used and apply remediation applications based on these faulty use assumptions.

EPA Clarification:

The Exide Child Lead Risk Assessment, which is based on the IEUBK Model, will be applied to the residential homes and the flat areas of the park. The EPA Adult Lead Model will be applied to the heavily wooded, steeply sloped, and not easily accessible areas of the park.

Mr. Dao reiterated that risk assessment models involve highly complex calculations and numerous variables; the EPA chose to apply two models to create an accurate picture of the situation in the park. Mr. Dao felt using one risk assessment model was unthinkable. Ms. Hill asked Mr. Dao to explain where the greatest variability is contained in risk modeling. Mr. Dao stated the greatest variability is found in the frequency of use and degree of exposure. Ms. Hill indicated that all park areas are subject to similar use and therefore should be treated by the same model. Ms. Hill stated it is dangerous to assume future park uses will dramatically change from the past use patterns.

Mr. Gotthold suggested a site visit. Mr. Dao agreed and announced the EPA's intent to involve an in-house toxicologist in the remediation assessment. Ms. Hill inquired why the EPA has not included a toxicologist sooner in the process. She questioned if the involvement of a toxicologist will delay the presentation of the final work plan. Mr. Gotthold replied that the finalization of the work plan will not be delayed. He also announced Exide's intent to remediate the Park before the surrounding residential properties.

Mr. Gotthold announced the Exide work plan will be presented on or about September 18th. The plan would detail the remediation strategy Exide will pursue. According to Mr. Gotthold the plan will be subject to public review and comment.

Ms. Hill and Mr. Erdman stressed the need for the final work plan to include the results of an ecological risk assessment and the need for the final plan to consider the ecological risk assessment before remediation levels are set. Mr. Gotthold stated that a timeline for residential remediation does not consider ecological remediation. He added that the EPA is unsure when an ecological risk assessment would occur.

Mr. McPhedran inquired when fish in the lake were last tested for contamination. He questioned if the lake is "catch and release". Mr. Gotthold stated that he was unsure about the contamination levels of the fish. Ms. Meeks stated that the Fishing Commission recommended "catch and release" at the Park in 1996.

Ms. Hill inquired if Exide has honored the terms of the initial consent decree, or

if deadlines been missed and fines levied by EPA. Mr. Gotthold indicated Exide has honored the terms of the decree. Ms. Hill inquired if Exide has sufficient funds to implement their work plan. Mr. Gotthold remarked that has not heard anything suggesting Exide would be unable to honor its obligations.

Ms. Hill inquired if the EPA provides progress reports to the DEP. Mr. Gotthold stated that quarterly progress reports are provided to the DEP; however, they are not considered public documents. Mr. McPhedran noted the absence of any documentation about the Exide issue in DEP and EPA files.

Ms. Hill again noted the lapse in documentation between 2002 and 2006. She stated that EPA was faulty as they did not provide all documentation made in the FOIA request. Mr. Gotthold suggested that Ms. Hill prepare a list of the documentation desired.

Ms. Hoag asked if EPA and the DEP communicate with each other. Ms. Hoag pointed out that DEP has asked the City to drain Bernhart's Dam to evaluate the condition of the dam breast. Ms. Hoag stated if the DEP determines that the dam should be taken down the contamination problem will expand beyond the park. Mr. Gotthold admitted that DEP and EPA do not regularly communicate and that the EPA was unaware of the DEP's position on dams. Ms. Hill requested EPA begin holding the relevant discussions with DEP. Mr. Gotthold noted that lead levels surrounding the dam were low enough to avoid serious problems. Ms. Hoag, Mr. McPhedran and Mr. Erdman disagreed with that assessment. Ms. Hoag and Mr. Jones noted the receipt of correspondence from the DEP that requires the City to take specific actions.

EPA Clarification:

EPA communicates regularly with our PADEP partners in the Environmental Cleanup Program regarding the Exide Investigation. However, Mr. Gotthold stated that EPA does not normally communicate with the PADEP Dam program unless the program is associated with the investigation.

Ms. Hill suggested the next meeting between all parties focus on a review of the proposed work plan. Ms. Hill requested representatives from Exide receive invitations for any future meetings. Mr. Gotthold agreed that a future meeting should focus on the work plan; however, he was unable to commit to attendance by Exide. Ms. Hill and Mr. McPhedran also suggested inviting the DEP to participate at the next meeting. All agreed having the DEP and Exide attend would be extremely important as the discussion will focus plan specifics.

Mr. Gotthold stated that the public meeting with affected residents would occur after the meeting planned with officials in September. Residents will be informed

about the hearing with an Act 2 type letter.

Ms. Hill noted the City, County and Muhlenberg Townships all hope that the EPA will agree on a level of remediation at the park that is acceptable and a level at which litigation can be avoided.

Ms. Hill summarized as follows:

- There remains a fundamental disagreement between the EPA and the City on the remediation levels applied to the park
- The EPA will provide a packet of documentation for the period between 2002 and 2006, at a minimum, along with reports on the ambient air values and default use model
- The City will provide the EPA with copies of all DEP correspondence relating to the evaluation of the Bernhart's Dam breast
- The EPA will invite Exide to the September meeting
- ☐ The City will invite the DEP to the September meeting

It was agreed to that the follow up meeting, to include Exide and the DEP, will occur on Thursday, September 20th, at a time to be determined, in Council Chambers. The meeting date for the affected residents will be determined at a later date.

Respectfully submitted by

Linda A. Kelleher, City Clerk

Christopher G. Kanezo, Deputy City Clerk